

**MDR Tracking Number: M5-04-3224-01**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 5-25-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The ultrasound treatments, aquatic therapy, and chiropractic extremity manipulations that were conducted between 08-01-03 and 08-13-03 **were found** to be medically necessary. Therapeutic exercises (97110 only 2 units) conducted between 9-12-03 and 9-17-03 **were found** to be medically necessary. Office visits conducted on 8-13-03, 9-15-03, 10-14-03 11-7-03 and 12-18-03 **were found** to be medically necessary. The remaining treatments conducted between 8-1-03 and 12-18-03 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision and Order are hereby issued this 30<sup>th</sup> day of August 2004.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 8-1-03 through 12-18-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 30<sup>th</sup> day of August 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/da

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** August 16, 2004

**RE:**

**MDR Tracking #:** M5-04-3224-01

**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Submitted by Requester:**

- Response to Peer Review - \_\_\_\_\_ - 01/09/04
- Clinical notes - \_\_\_\_\_ - 04/14/03-06/16/03
- Clinical evaluation - \_\_\_\_\_ - 03/04/04
- Psychological evaluation - \_\_\_\_\_ - 11/14/03
- FCE - \_\_\_\_\_ - 11/07/03
- Impairment Rating - \_\_\_\_\_ - 01/19/04
- MRI report - \_\_\_\_\_ - 05/12/03
- Daily chiropractic Exam/SOAP notes - \_\_\_\_\_ - 07/24/03-01/19/04

### **Submitted by Respondent:**

- TWCC 60 for Medical Dispute Resolution
- Notification of IRO assignment
- EOBs from \_\_\_\_\_ to \_\_\_\_\_ 09/11/03-03/11/04

## **Clinical History**

This case involves a claimant who was injured while on-the-job on \_\_\_\_\_. Allegedly, the claimant injured her right ankle and left knee after stepping into a hole and then falling down. The initial diagnoses were right ankle sprain and left knee strain. An MRI on 05/12/03 indicated a osteochondral defect in the posterolateral aspect of the talar dome and probable tears in the right lateral, distal peroneal tendon and in the right anterior tibiofibular ligament. The claimant underwent 4 weeks of physical therapy (PT) followed by 13 weeks of chiropractic physiotherapy. A steroid injection was performed on the right ankle in November 2003. The claimant was found at MMI with a whole person impairment of 4% and returned to full work duty 01/16/2004.

## **Requested Service(s)**

I have been asked to present a decision regarding the medical necessity of ultrasound (97035), aquatic therapy (97113), taping for stability (97139), Matrix nerve block and vasopneumatic application (97016), chiropractic manipulative therapy to extremity (98943), therapeutic exercise (97110), cryotherapy (97010), manual therapy (97140), durable medical equipment (E-1399), kinetic activities (97530), level 2 evaluation and management (99212), and chiropractic spinal manipulative therapy (98940) rendered or supplied to the claimant from 08/01/03 through 12/18/03.

## **Decision**

Based on the information contained within the submitted documentation, the ultrasound treatments (97035), aquatic therapy (97113), and chiropractic extremity manipulations (98943) that were conducted between 08/01/03 and 08/13/03 were medically necessary. Therapeutic exercises (97110 only 2 units) conducted between 09/12/03 and 09/17/03 were medically necessary. And office visits (99212) conducted on 08/13/03, 09/15/03, 10/14/03, 11/07/03, and 12/18/03 were medically necessary.

All other treatments conducted between 08/01/03 and 12/18/03 were not medically necessary.

## **Rationale/Basis for Decision**

Ultrasound (97035) - By 08/13/03, the claimant had already undergone 7 total weeks of PT/chiropractic care. The first re-exam indicated that the claimant's range of motion of the right ankle had actually worsened during the 3 weeks of chiropractic care. Thus, this treatment modality had provided no therapeutic benefit for the claimant and continuation beyond 08/13/03 was not medically necessary. Also, this modality is considered passive in nature and its use beyond the initial 4 weeks post-injury or "acute phase" is discouraged among current and accepted standards of physiotherapeutic care.

Aquatic Therapy (97113) - The first re-exam conducted on 08/13/03 indicated that the claimant's condition had grown worse by a positive anterior drawer sign and reduced ranges of motion. Three weeks of this therapy had produced no therapeutic benefit for the claimant and continuation was not medically necessary.

Taping for Stabilization (97139) - By 08/01/03 the claimant was already 4 months post-injury with pain and reduced ranges of motion, but the documentation contains no objective information regarding instability of the right ankle or evidence supporting the use of taping. Therefore, this treatment was not medically necessary.

Matrix Nerve Block and Vasopneumatic Treatment (97016) - The documentation contains no objective evidence that would necessitate a nerve block procedure. The documentation does indicate the existence of swelling about the right ankle and the left knee, but the use of vasopneumatic procedures to reduce swelling in these regions is not supported by current and accepted standards of care. Also, the documentation contains no objective evidence that this procedure produced reduced swelling in either the left knee or right ankle. Therefore, this treatment was not medically necessary.

Chiropractic Manipulation of the Extremity (98943) - This procedure was only conducted on 08/04/03, but was a reasonable and necessary approach to improve joint mobility and reduce neurological pressure about the right ankle.

Rehabilitative Exercises (97110) - This procedure was not started until 09/12/03. The documentation indicates that by that time, the claimant had been through extensive and largely unsuccessful passive and active therapy. On 09/11/03 \_\_\_\_\_ recommended that the claimant be released to an independent self-exercise program at home. Three visits of rehabilitative exercise training consisting of 2 units each would have been a reasonable and necessary approach to train the claimant in active exercise and re-establish her independence. The documentation contains no objective evidence that active exercise conducted "in-house" beyond 09/17/03 provided any therapeutic benefit for the claimant.

Cryotherapy (97010) - This modality is considered passive in nature and its use beyond 4 weeks post-injury, or the "acute phase" of care is not supported by current and accepted standards of care.

Manual Therapeutic Procedures (97140) - This treatment modality is considered passive in nature and its use beyond the initial 4 weeks post-injury or "acute phase" of care is not supported by current and accepted standards of care. The documentation contains no objective evidence to support the implementation of this treatment 16 weeks post-injury.

Unspecified Durable Medical Equipment (E-1399) - The documentation fails to specify exactly what equipment was implemented and billed for. Therefore, the medical necessity of the equipment pertaining to this code is not supported in the documentation.

Kinetic Activities (97530) - This procedure was only conducted on 10/10/03 and 10/15/03. By these dates, the claimant had already undergone extensive passive and active therapy and one month prior, \_\_\_\_\_ had suggested that the claimant be transitioned into an independent self-exercise program. The documentation offers no objective support for the use of this procedure beyond the rehabilitative exercises that had already been conducted. Therefore, this procedure was not medically necessary.

Evaluation/Management (E/M) (99212) - The documentation offers no objective information showing that this level of E/M occurred on dates between 08/01/03 and 12/18/03 except on dates

on which re-exams occurred. Some of these re-exam dates indicated that 99213 and 99214 levels of service occurred and additionally, the documentation does not support that either of these levels of service occurred on those dates. Therefore on all other dates between 08/01/03 and 12/18/03 except 08/13/03, 09/15/03, 10/14/03, 11/07/03, and 12/18/03 the 99212 E/M procedures were not medically necessary and on the re-exam dates mentioned above, only 99212 levels of service were medically necessary.

Chiropractic Manipulative Therapy of the Spine (1-2 regions) (98940) - The compensable injuries do not involve the claimant's spine. Therefore, treatments to regions in the spine were not medically necessary.